

ENTERED

December 13, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TRAELYN SMITH,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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Civil Case No. 4:22-CV-01321

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the October 30, 2023 Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Peter Bray. (Dkt. No. 15). Judge Bray made findings and conclusions and recommended that Plaintiff’s Petition, (Dkt. No. 1), be dismissed with prejudice, without an evidentiary hearing. (Dkt. No. 9).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On December 11, 2023, Smith filed objections, (Dkt. No. 20), wherein he re-argues the merits of the arguments that the magistrate judge already considered.

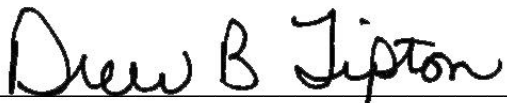
In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Magistrate Judge Bray's M&R (Dkt. No. 15) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Petitioner's Petition for Writ of Habeas Corpus is **DISMISSED** with prejudice.

It is SO ORDERED.

Signed on December 13, 2023.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE